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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/700,595	11/05/2003	Nicolas Lebrun	16466-2US PM/DP/mft	7589

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EXAMINER

FETSUGA, ROBERT M

ART UNIT PAPER NUMBER

3751

DATE MAILED: 01/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/700,595

Applicant(s)

LEBRUN ET AL.

Examiner

Robert M. Fetsuga

Art Unit

3751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 23-27,31,33 and 35-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 31,33 and 35 is/are allowed.
- 6) ☒ Claim(s) 23-27,36,37,39 and 40 is/are rejected.
- 7) ☒ Claim(s) 38 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 April 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file. It is noted reference made in the prior Office action to a filing date of "April 11, 2003" was in error and should have stated --November 04, 2003--.

2. The proposed drawing correction filed on December 13, 2005 is disapproved as containing new matter. New Fig. 3 is not reconcilable with the original disclosure with regard to the connector 115 and bottom partition 133 (designated as the same element). Contrary to applicant's implication at page 12 of the response filed December 13, 2005, claim 23 does not encompass new Fig. 3.

3. The drawings are objected to for the reasons set forth in the prior Office action. The noted proposed drawing correction would be acceptable to obviate those objections provided Fig. 3 was omitted therefrom. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the

replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

4. The disclosure is objected to because of the following informalities: Paragraph 0024, line 3, "41" apparently should be --49--; and paragraph 0026, line 2 and the paragraph immediately following, line 1, "101" designates different elements.

Appropriate correction is required.

5. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: Proper antecedent basis for the "mounted to" language (ln. 8), "outer surface" (ln. 9), "inner surface" (ln. 12) and "portion" (ln. 13) set forth in claim 23, "fixable"

Art Unit: 3751

language (ln. 8) and "connectable to a pressurized fluid supply" language (ln. 10) set forth in claim 31, "connectable to the pressurized fluid supply" language (lns. 4-5) set forth in claim 35 (and similarly claim 36), "securable" language (ln. 7) set forth in claim 36, and the subject matter set forth in claims 39 and 40, could not be found in the specification. Applicant is reminded claim terminology in mechanical cases should appear in the descriptive portion of the specification by reference to the drawing(s).

Applicant argues at page 12 of the response the term "fixable" has support in paragraph 0012. However, paragraph 0012 neither defines the term fixable, nor is present in the detailed description of the invention. Applicant further argues at page 12 of the response the term "connectable" has support in paragraph 0018. However, the term as it is used in claims 31 and 35 (albeit differently than claim 31) is not defined in paragraph 0018.

6. Claim 27 is rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Art Unit: 3751

The claim recites "said connector... has a first thread extending along an outer surface thereof." This subject matter is not found in the originally filed disclosure and is therefore considered to be new matter.

7. Claims 24 and 36 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 24 recites the "first aperture" is formed in the bottom partition (ln. 7). However, claim 23 previously defined this aperture as part of the connector (lns. 11-12). The metes and bounds of "first aperture" is not readily discernable.

Claim 36 lacks antecedent basis for "the outlet aperture" (ln. 11).

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 23-27, 36, 37, 39 and 40, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Moreland.

Art Unit: 3751

The Moreland reference discloses a micro jet comprising: a holding cup 26 including a peripheral wall having a mounting flange 92, a first cylindrical portion 65b (with a thread, col. 3 ln. 51) and a second cylindrical portion 68b, and a bottom partition 64; a connector 60 including a port/apertures (illustrated) and a thread (in the same sense as with applicants' disclosed invention, col. 5 ln. 63); a whirlpool bath 10 including a shell 74; and a microjet 70b, as claimed. The cylindrical portions are "angularly disposed" as broadly recited in claims 24 and 36.

10. Applicant's arguments with respect to claim 23 at page 13 of the response have been considered but are moot in view of the new ground(s) of rejection.

11. Claim 38 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 31, 33 and 35 are allowable.

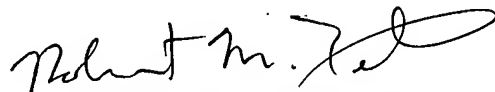
12. The grounds of rejection have been reconsidered in light of applicant's arguments, but are still deemed to be proper.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Art Unit: 3751

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

13. Any inquiry concerning this communication should be directed to Robert M. Fetsuga at telephone number 571/272-4886 who can be most easily reached Monday through Thursday. The Office central fax number is 571/273-8300.



Robert M. Fetsuga
Primary Examiner
Art Unit 3751